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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/537,250	03/28/2000	Anthony John Olivier	U 012693-7	5335

140 7590 07/31/2002

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

EXAMINER

NGUYEN, TAM M

ART UNIT	PAPER NUMBER
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1764

DATE MAILED: 07/31/2002

18

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/537,250

Applicant(s)

OLIVIER ET AL.

Examiner

Tam M. Nguyen

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-- **Th MAILING DATE of this communication appears on the cover sheet with the correspond nce address --**
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO ~~EXPIRE~~ 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

The rejection of claims 2 and 3 under 35 USC § 112 is withdrawn by the examiner in view of the amendment filed on May 7, 2002.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Ireland et al. (4,041,097).

Ireland discloses a process for separating a Fischer-Tropsch derived paraffinic hydrocarbon feedstock, which comprises light, medium, and heavy paraffins, by feeding the feedstock into a distillation column to produce an overhead stream, a side stream, and a bottom stream. It is noted that Ireland does not specifically disclose that the side stream and the bottom stream are usable wax products. However, the Ireland process is similar to the claimed process. Therefore, the Ireland wax product would have similar characteristics as the claimed wax products. It is also noted that Ireland does not specifically disclose that the distillation column produces usable wax products, hard wax, and paraffins. However, each fraction from the distillation column of Ireland contains paraffins and each has different boiling points. Therefore,

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the limitations are embraced by the reference. (See col. 2, line 52 through col. 3, line 23; col. 7, lines 39-61; claims 1 and 2)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

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Claims 4, 5 and 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ireland et al. (4,041,097).

Ireland does not specifically disclose the operating conditions of the distillation column. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the Ireland process by utilizing the claimed operating conditions because the operating conditions of the distillation column of Ireland are not a critical component. Therefore, one of skill in the art would operate the Ireland column at any conditions including the claimed condition to produce different fractions that have different boiling points and it would be expected that the results would be the same or similar when using the claimed condition in the process of Ireland.

Ireland does not disclose the dimensions and the characteristics of the column. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Ireland process by utilizing a distillation column having the claimed dimensions and the claimed physical characteristics because the dimensions and the characteristics of the column are not a critical component. Therefore, one of skill in the art would employ any column including the claimed column to separate a feedstock into at least one overhead stream, one side stream, and one bottom stream and it would be expected that the results would be the same or similar when using the claimed column in the process of Ireland.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the reference as applied to claims 1-5 above, and further in view of Farnham (4,295,936).

Ireland does not specifically disclose that the bottom fraction is cooled and recycled back to the column. However, it would have been obvious to one having ordinary skill in the art at the

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time the invention was made to have modified the Ireland process by recycling about 10% of the bottom fraction back to the column because Farnham discloses that pumping costs are saved and the overall degradation rate is lower when recycling less than one-fifth the amount of cooled bottoms to the column. (See col. 4, lines 15-23)

Response to Arguments

The argument that the side stream of Ireland does not contain usable wax because it contains hydrocarbon compounds having a boiling point of about 316° C (600° F) and; therefore, the hydrocarbon compounds are liquid at room temperature is noted. However, the argument is not persuasive because Ireland discloses that the heavy waxy material (20) has a boiling point of from 600 to about 850° F and it is known that a waxy hydrocarbon having a boiling point about 800° F is solid at room temperature. Therefore, one of skill in the art would operate the process of Ireland at effective conditions to produce a waxy product **comprising** a paraffin having a boiling point of about 800° F to meet the usable wax criteria.

The argument that the bottom stream of Ireland does not contain usable wax is noted. However, the argument is not persuasive because Ireland discloses that the bottom stream has a boiling point higher than about 850° F and the feedstock of Ireland is similar to the claimed feedstock. Therefore, it would be expected that the bottom stream of Ireland would **comprise** usable wax products as the claimed bottom stream.

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Conclusion

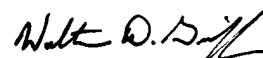
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam M. Nguyen whose telephone number is (703) 305-7715.

The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marian Knode can be reached on 703 308 4311. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-5408 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Tam Nguyen/ TN
July 28, 2002


Walter D. Griffin
Primary Examiner